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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,391	07/18/2003	Ta-Kuang Chang	4425-307	2465

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EXAMINER


JOYCE, HAROLD

ART UNIT PAPER NUMBER

3749

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,391	Applicant(s) CHANG ET AL. 	
	Examiner Harold Joyce	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9,12-16 and 40-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,12-16 and 40-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Australian patent. Note, the claimed plural outlets correspond to drainage outlet 46 having conventional plural outlets as shown in Figure 2. The claim does not make a distinction between a vent outlet or a drain outlet. Note, the outlet of the Australian patent is shown with conventional perforations.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian patent in view of Wonsetler. The Australian patent discloses the claimed invention including a fan 58 and a suitable filter arrangement (page 7, line 35 to page 8, line 2). The Australian patent does not disclose a centrifugal fan and a HEPA/ULPA filter and prefilter. Wonsetler teaches that it is known to provide an exhausting station with a squirrel cage type fan and a fine filter and coarse filter as set forth at column 3,

lines 43-63. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fume cabinet of the Australian patent with a centrifugal fan and a HEPA/ULPA filter and prefilter, as taught by Wonsetler in order to provide an equivalent type of air mover and suitable filter arrangement.

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian patent in view of Wilk et al. The Australian patent discloses the claimed invention except for four sidewalls having a sloping profile. Note, the Australian patent does show in Figure 2 two sloped side walls and it is presumed that the other two side to be sloped also as in conventional sinks. Nevertheless, Wilk et al. teaches that it is known to provide a gas, smoke, solid particles and the like removal device with four sloping side walls as set forth at column 3, line 63 to column 4, line 17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fume cabinet of the Australian patent with four sloping side walls, as taught by Wilk et al. in order to reduce the speed and energy of spark particles. As to claim 9, the inside surfaces of the Australian patent inherently become sticky from spillage.

6. Claims 12-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian patent in view of Gayring. The Australian patent discloses the claimed invention except for the half cylindrical canopy. Gayring teaches that it is known to provide cabinet with a hood and shield as set forth at page 2, lines 36-50. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to substitute the cylindrical canopy in Gayring for the top cover of

the Australian in order to provide an equivalent canopy. For the hood to be a half cylindrical rather than a quarter of a cylinder would have been an obvious matter of design choice since such a modification would have involved a mere change in the size of an opening of the hood. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). As to claim 16, the inside surfaces of the Australian patent inherently become sticky from spillage.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian patent as applied to claim 13 above, and further in view of Kleppen. Further, the Australian patent discloses the claimed invention except for the glove port. Kleppen teaches that it is conventional to provide a work station enclosure with glove ports as set forth at column 4, lines 24-31. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fume cabinet of the Australian patent with the glove port, as taught by Kleppen in order to accommodate a pair of gloves.

8. Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian patent in view of Gayring as applied to claim 12 above, and further in view of Wonsetler. Further, the Australian patent discloses the claimed invention including a fan 58 and a suitable filter arrangement (page 7, line 35 to page 8, line 2). The Australian patent does not disclose a centrifugal fan and a HEPA/ULPA filter and prefilter. Wonsetler teaches that it is known to provide an exhausting station with a squirrel cage type fan and a fine filter and coarse filter as set forth at column 3, lines 43-63. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to provide the fume cabinet of the Australian patent with a centrifugal fan and a HEPA/ULPA filter and prefilter, as taught by Wonsetler in order to provide an equivalent type of air mover and suitable filter arrangement.

9. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Australian patent in view of Gayring as applied to claim 12 above, and further in view of Wilk et al. Further, the Australian patent discloses the claimed invention except for four sidewalls having a sloping profile. Wilk et al. teaches that it is known to provide a gas, smoke, solid particles and the like removal device with plural outlets and four sloping side walls as set forth at column 3, line 63 to column 4, line 17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fume cabinet of the Australian patent with four sloping side walls, as taught by Wilk et al. in order to reduce the speed and energy of spark particles.

Drawings

10. The drawings were received on November 12, 2004. These drawings are acceptable.

Response to Arguments

11. Applicant's arguments filed November 12, 2004 have been fully considered but they are not persuasive. Applicant maintains on page 7, seventh paragraph, that the outlet of the Australian patent discharge spent sterilizing fluid and is not arranged to be connected with a motor of fan to discharge particles. From a perusal of applicant's claims, the claims do not recite this feature. Note, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The spent fluid of the Australian patent is capable of containing particles.

As to the argument on page 8, first full paragraph, that Wonsetler does not disclose a HEPA or ULPA filter, Wonsetler states at column 3, lines 44-54:

Filter receiver 60c receives a filter 62c with a fibrous pad, which can comprise Dycon filter media. A pocket-type or bag-type filter 62d is received in the filter receiver 60d and includes multiple, juxtaposed pockets 64 which are open in an upstream direction, closed in a downstream direction and extend generally downstream within the cabinet 32 interior. The pockets 64 can comprise a suitable fibrous or cloth-type filter media. Preferably the media of the upstream filter 62a is coarsest and the filter media of the downstream filter 62d is finest for successive filtering stages in operation.

The Dycon filter and the bag-type filter are HEPA/ULPA filters; and if not, the selection of a known material based on its suitability for its intended use is obvious. The remaining arguments are not recited in the claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

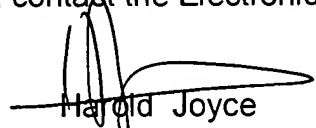
Art Unit: 3749

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Joyce whose telephone number is (703) 308-0274. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harold Joyce
Primary Examiner
Art Unit 3749